



March 16, 2007

ENGROSSED HOUSE BILL No. 1214

DIGEST OF HB 1214 (Updated March 15, 2007 9:11 am - DI 106)

Citations Affected: IC 32-31.

Synopsis: Landlord-tenant law. Specifies circumstances in which a landlord may enter a tenant's dwelling unit. Provides that a landlord has no liability for the loss or damage to a tenant's personal property if the property has been abandoned. Provides that under certain circumstances, a landlord may remove a tenant's personal property and deliver it to a storage facility approved by the court.

Effective: July 1, 2007.

Pierce, Micon, Koch

(SENATE SPONSOR — BRAY)

January 11, 2007, read first time and referred to Committee on Judiciary.
February 15, 2007, amended, reported — Do Pass.
February 19, 2007, read second time, ordered engrossed. Engrossed.
February 20, 2007, read third time, passed. Yeas 93, nays 1.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Judiciary.
March 15, 2007, amended, reported favorably — Do Pass.

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March 16, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1214

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-31-4-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 1.5. As used in this chapter, "storage facility" means**
4 **any location approved by a court for storage of a tenant's personal**
5 **property under section 2(e) of this chapter.**
6 SECTION 2. IC 32-31-4-2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) **A landlord has**
8 **no liability for loss or damage to a tenant's personal property if the**
9 **tenant's personal property has been abandoned by the tenant.**
10 (b) **For purposes of this section, a tenant's personal property is**
11 **considered abandoned if a reasonable person would conclude that**
12 **the tenant has vacated the premises and has surrendered**
13 **possession of the personal property.**
14 (c) **An oral or a written rental agreement may not define**
15 **abandonment differently than is provided in subsection (b).**
16 (d) **If a landlord is awarded possession of a dwelling unit by a court**
17 **under IC 32-30-2, the landlord may seek an order from the court**

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allowing removal of a tenant's personal property.

~~(b)~~ (e) If the tenant fails to remove the tenant's personal property before the date specified in the court's order issued under subsection ~~(a)~~, (d), the landlord may remove the tenant's personal property in accordance with the order and deliver the personal property to a warehouseman under section 3 of this chapter **or to a storage facility approved by the court.**

SECTION 3. IC 32-31-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If a tenant has failed to remove the tenant's personal property under section 2 of this chapter, a landlord may deliver the personal property to a warehouseman **or to a storage facility** if notice of both of the following has been personally served on the tenant at the last known address of the tenant:

(1) An order for removal of personal property issued under section 2 of this chapter.

(2) The identity and location of the warehouseman **or the storage facility.**

(b) At the demand of the owner of the exempt property, the warehouseman **or storage facility** shall release the exempt property to the owner without requiring payment from the owner at the time of delivery.

(c) A waiver of the provisions of section 1 of this chapter or subsection (b) by contract or otherwise is void.

SECTION 4. IC 32-31-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A warehouseman **or storage facility** that receives property under this chapter holds a lien on all of that property that is not exempt property to the extent of the expenses for any of the following incurred by the warehouseman **or storage facility** with respect to all of the property, whether exempt or not exempt:

(1) Storage.

(2) Transportation.

(3) Insurance.

(4) Labor.

(5) Present or future charges related to the property.

(6) Expenses necessary for preservation of the property.

(7) Expenses reasonably incurred in the lawful sale of the property.

(b) A tenant may claim the tenant's property at any time until the sale of the property under section 5 of this chapter by paying the warehouseman **or storage facility** the expenses described in this

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1 section.

2 SECTION 5. IC 32-31-4-5 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. If a tenant does not
4 claim the tenant's property within ninety (90) days after receiving
5 notice under section 3 of this chapter, a warehouseman **or storage**
6 **facility** may sell the property received under this chapter under
7 IC 26-1-7-210(2).

8 SECTION 6. IC 32-31-5-6 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This section does
10 not apply if the dwelling unit has been abandoned.

11 (b) For purposes of this section, a dwelling unit is considered
12 abandoned if:

- 13 (1) the tenants have failed to:
14 (A) pay; or
15 (B) offer to pay;
16 rent due under the rental agreement; and
17 (2) the circumstances are such that a reasonable person would
18 conclude that the tenants have surrendered possession of the
19 dwelling unit.

20 An oral or written rental agreement may not define abandonment
21 differently than is provided by this subsection.

22 (c) Except as authorized by judicial order, a landlord may not deny
23 or interfere with a tenant's access to or possession of the tenant's
24 dwelling unit by commission of any act, including the following:

- 25 (1) Changing the locks or adding a device to exclude the tenant
26 from the dwelling unit.
27 (2) Removing the doors, windows, fixtures, or appliances from
28 the dwelling unit.
29 (3) Interrupting, reducing, shutting off, or causing termination of
30 any of the following to a tenant:
31 (A) Electricity.
32 (B) Gas.
33 (C) Water.
34 (D) Other essential services.

35 However, the landlord may interrupt, shut off, or terminate
36 service as the result of an emergency, good faith repairs, or
37 necessary construction. This subdivision does not require a
38 landlord to pay for services described in this subdivision if the
39 landlord has not agreed, by an oral or written rental agreement, to
40 do so.

41 (d) A tenant may not interrupt, reduce, shut off, or cause termination
42 of:

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1 (1) electricity;
 2 (2) gas;
 3 (3) water; or
 4 (4) other essential services;
 5 to the dwelling unit if the interruption, reduction, shutting off, or
 6 termination of the service will result in serious damage to the rental
 7 unit.

8 **(e) A tenant may not unreasonably withhold consent to the**
 9 **tenant's landlord to enter the tenant's dwelling unit in order to:**

- 10 (1) inspect the dwelling unit;
 11 (2) make necessary or agreed to:
 12 (A) repairs;
 13 (B) decorations;
 14 (C) alterations; or
 15 (D) improvements;
 16 (3) supply necessary or agreed to services; or
 17 (4) exhibit the dwelling unit to prospective or actual:
 18 (A) purchasers;
 19 (B) mortgagees;
 20 (C) tenants;
 21 (D) workers; or
 22 (E) contractors.

23 **(f) A landlord may enter the dwelling unit:**

- 24 (1) without notice to the tenant in the case of an emergency
 25 that threatens the safety of the occupants or the landlord's
 26 property; and
 27 (2) without the consent of the tenant:
 28 (A) under a court order; or
 29 (B) if the tenant has abandoned or surrendered the
 30 dwelling unit.

31 **(g) A landlord:**

- 32 (1) shall not abuse the right of entry or use a right of entry to
 33 harass a tenant;
 34 (2) shall give a tenant reasonable written or oral notice of the
 35 landlord's intent to enter the dwelling unit; and
 36 (3) may enter a tenant's dwelling unit only at reasonable
 37 times.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1214, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-31-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. As used in this chapter, "storage facility" means a facility approved by a court for storage of a tenant's personal property under section 2(e) of this chapter.**

SECTION 2. IC 32-31-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) **A landlord has no liability for loss or damage to a tenant's personal property if the tenant's personal property has been abandoned by the tenant.**

(b) For purposes of this section, a tenant's personal property is considered abandoned if a reasonable person would conclude that the tenant has vacated the premises and has surrendered possession of the personal property.

(c) An oral or a written rental agreement may not define abandonment differently than is provided in subsection (b).

(d) If a landlord is awarded possession of a dwelling unit by a court under IC 32-30-2, the landlord may seek an order from the court allowing removal of a tenant's personal property.

(e) If the tenant fails to remove the tenant's personal property before the date specified in the court's order issued under subsection (d), the landlord may remove the tenant's personal property in accordance with the order and deliver the personal property to a warehouseman under section 3 of this chapter or to a storage facility approved by the court.

SECTION 3. IC 32-31-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If a tenant has failed to remove the tenant's personal property under section 2 of this chapter, a landlord may deliver the personal property to a warehouseman **or to a storage facility** if notice of both of the following has been personally served on the tenant at the last known address of the tenant:

- (1) An order for removal of personal property issued under section 2 of this chapter.
- (2) The identity and location of the warehouseman **or the storage facility.**

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(b) At the demand of the owner of the exempt property, the warehouseman **or storage facility** shall release the exempt property to the owner without requiring payment from the owner at the time of delivery.

(c) A waiver of the provisions of section 1 of this chapter or subsection (b) by contract or otherwise is void.

SECTION 4. IC 32-31-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A warehouseman **or storage facility** that receives property under this chapter holds a lien on all of that property that is not exempt property to the extent of the expenses for any of the following incurred by the warehouseman **or storage facility** with respect to all of the property, whether exempt or not exempt:

- (1) Storage.
- (2) Transportation.
- (3) Insurance.
- (4) Labor.
- (5) Present or future charges related to the property.
- (6) Expenses necessary for preservation of the property.
- (7) Expenses reasonably incurred in the lawful sale of the property.

(b) A tenant may claim the tenant's property at any time until the sale of the property under section 5 of this chapter by paying the warehouseman **or storage facility** the expenses described in this section.

SECTION 5. IC 32-31-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. If a tenant does not claim the tenant's property within ninety (90) days after receiving notice under section 3 of this chapter, a warehouseman **or storage facility** may sell the property received under this chapter under IC 26-1-7-210(2).".

Page 3, line 4, after "order;" insert "**or**".

Page 3, line 6, delete "unit; or" and insert "**unit**".

Page 3, delete line 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1214 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1214, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, delete "a facility" and insert "**any location**".

and when so amended that said bill do pass.

(Reference is to HB 1214 as printed February 16, 2007.)

BRAY, Chairperson

Committee Vote: Yeas 5, Nays 1.

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